IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 5TH FEBRUARY 2007 / 16TH MAGHA 1928

RP.No. 110 of 2007(N)

AGAINST THE JUDGEMENT/ORDER IN OP.26805/2000
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PETITIONER/PETITIONER:

PHOSPHOROUS & CHEMICALS TRAVANCORE LTD.,
39/4206, 1ST FLOOR, OLD THEVARA ROAD,ERNAKULAM-16,
REPRESENTED BY ITS DIRECTOR SRI.P.K.KRISHNAMURTHY.

BY ADV. SRI.P.N.RAVINDRAN
SMT.PREETHY KARUNAKARAN
SMT.MEENA.A.
SMT.M.R.MINI
SRI.JAYKAR.K.S.

RESPONDENTS: RESPONDENTS:
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1. KERALA STATE ELECTICITY BOARD,
VYDHYUTHI BHAVANAM, THIRUVANANTHAPURAM-4,
REPRESENTED BY ITS CHAIRMAN.

2. THE SPECIAL OFFICER (REVENUE),
KERALA STATE ELECTRICITY BOARD,VYDHYUTHI BHAVANAM.

3. THE CHIEF ENGINEER,
TRANSMISSION (SOUTH), K.S.E.BOARD,
VYDHYUTHI BHAVANAM, THIRUVANANTHAPURAM-4.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 05/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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R.P. No.110 of 2007 in
W.P.(C) No.26805 of 2000

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Dated this the 5th day of February, 2007.

ORDER

Heard counsel for the review petitioner and Standing Counsel for KSEB. Even though Division Bench has assumed that applicability of Clause 16 of the agreement was not considered in the judgment, I find that Clause 16 was considered and was found inapplicable because the said provision provides for rebate only when KSEB is not in a position to supply power and not when the consumer fails to avail supply on account of breakdown or any other circumstance. Therefore, the main ground raised in the review is not tenable at all. However, counsel for the review petitioner submitted that demands are not raised in terms of the rates provided in the Schedule to the agreement. The tariff payable by the review petitioner was not an issue raised in the O.P. and therefore, it cannot be decided in review. However, review petitioner is entitled to challenge the amount of demand in an appeal before the statutory authority. Under the 2003 Act, the very same Assessing Officer is entitled to correct mistakes in the demands raised on application by the consumer. Appeal need be filed only if there is a surviving grievance. In the circumstances, R.P. is disposed

of with direction to third respondent to consider the demands raised afresh based on terms of agreement between the parties on petitioner pointing out the specific mistakes or defects in the present demand which the petitioner will furnish before the third respondent within two weeks from today. The third respondent will revise the demands after hearing petitioner's objections and after considering the agreement.

C.N.RAMACHANDRAN NAIR
Judge

pms